IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOMS APPLICATION NO.10 OF 2002

The Commissioner of Customs
New Customs House, Mumbai. ..Applicant.

V/s.

M/s.Vidyut Metallics Ltd.
Malhotra House, 4th Floor,
Opp. G.P.O. Mumbai 400 001. ..Respondent.

Mr.A.J.Rana, Senior counsel with Mrs.S.V.Bharucha i/b. H.P.Chaturvedi for applicant.

Mr.Sumit Raghani i/b. PDS Legal for respondent.

CORAM : DR. S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 18TH JANUARY, 2007.

ORAL JUDGMENT (PER DR.S.RADHAKRISHNAN, J.)

. Heard learned Senior Counsel for the applicant and learned counsel for the respondent. The appeal was admitted on 23rd February, 2005 on the following substantial questions of law:-

1) Whether misdeclaration of value of export consignment is a violation of section 113(d) of the Customs Act, 1962 read with section 18(1)(a) and section 67 of FERA, 1973 as read with section 11, 50(2) of the Customs Act, 1962 ?

2) Whether misdeclaration of quality and description of goods exported is a violation of rule 11 of the Foreign Trade (Regulation) Rules, 1993 read with section 11 of the Foreign Trade (Development & Regulation) Act, 1992 and read

with section 11 of Customs Act, 1962 thereby making the goods liable for confiscation under section 113(d) of Customs Act, 1962 and parties concerned liable for penalty under section 114 of Customs Act, 1962. This aspect of misdeclaration of goods leading to confiscation of the goods has been overlooked by CEGAT ?

2. The question as to whether over invoicing would amount to mis-declaration of valuation of the exported consignment in violation of section 113(d) of the Customs Act is a question of law. In view thereof, we direct the Tribunal to send the statement of the case as expeditiously as possible.

3. Application stands disposed of accordingly.

(DR.S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)